

# HOUSE BILL 1556

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9lr0076

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By: **Chair, Economic Matters Committee and Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Rules suspended

Introduced and read first time: March 10, 2009

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Coal Combustion By-Products – Fees**

3 FOR the purpose of establishing in the Department of the Environment a fund for the  
4 management of certain coal combustion by-products; providing that the Fund is  
5 a special, continuing, nonlapsing fund; authorizing the Department to establish  
6 and collect a certain fee; requiring the Department to consider certain factors in  
7 establishing and reviewing a fee; requiring the fee to be paid into the Fund;  
8 requiring the Department to use the Fund for certain purposes; requiring the  
9 Department annually to submit a certain report; requiring the Department to  
10 adopt certain regulations; defining certain terms; and generally relating to coal  
11 combustion by-products.

12 BY adding to

13 Article – Environment

14 Section 9–281 through 9–286 to be under a new part “Part VII. State Coal  
15 Combustion By-Products Management Fund”

16 Annotated Code of Maryland

17 (2007 Replacement Volume and 2008 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Environment**

21 **9–279. RESERVED.**

22 **9–280. RESERVED.**

23 **PART VII. STATE COAL COMBUSTION BY-PRODUCTS MANAGEMENT FUND.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**9-281.**

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "COAL COMBUSTION BY-PRODUCTS" MEANS THE RESIDUE GENERATED BY, OR RESULTING FROM, THE BURNING OF COAL.

(2) "COAL COMBUSTION BY-PRODUCTS" INCLUDES FLY ASH, BOTTOM ASH, BOILER SLAG, POZZOLAN, AND OTHER SOLID RESIDUALS REMOVED BY AIR POLLUTION CONTROL DEVICES FROM THE FLUE GAS AND COMBUSTION CHAMBERS OF COAL-BURNING FURNACES AND BOILERS, INCLUDING FLUE GAS DESULFURIZATION SLUDGE AND OTHER SOLID RESIDUALS RECOVERED FROM FLUE GAS BY WET OR DRY METHODS.

(C) "FUND" MEANS THE STATE COAL COMBUSTION BY-PRODUCTS MANAGEMENT FUND.

(D) (1) "GENERATOR" MEANS A PERSON WHOSE OPERATIONS, ACTIVITIES, PROCESSES, OR ACTIONS CREATE COAL COMBUSTION BY-PRODUCTS.

(2) "GENERATOR" DOES NOT INCLUDE A PERSON WHO ONLY GENERATES COAL COMBUSTION BY-PRODUCTS BY BURNING COAL AT A PRIVATE RESIDENCE.

**9-282.**

(A) THERE IS A STATE COAL COMBUSTION BY-PRODUCTS MANAGEMENT FUND.

(B) THE FUND SHALL CONSIST OF:

(1) FEES COLLECTED BY THE DEPARTMENT UNDER § 9-283 OF THIS SUBTITLE;

(2) FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR DEPOSIT TO THE FUND; AND

(3) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES, PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE FUND HAS BEEN ESTABLISHED.

1           (C)   (1)   THE FUND IS A SPECIAL, CONTINUING, NONLAPSING FUND  
2 WHICH IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND  
3 PROCUREMENT ARTICLE.

4           (2)   NOTWITHSTANDING ANY LAW TO THE CONTRARY, UNUSED  
5 MONEY IN THE FUND MAY NOT REVERT TO THE GENERAL FUND.

6           (D)   THE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE  
7 DEPARTMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS PART AND ANY  
8 REGULATIONS THE DEPARTMENT ADOPTS IN ACCORDANCE WITH THIS PART.

9   **9-283.**

10          (A)   BY REGULATION, THE DEPARTMENT MAY ESTABLISH, IMPOSE, AND  
11 COLLECT A FEE TO BE PAID BY A GENERATOR OF COAL COMBUSTION  
12 BY-PRODUCTS, BASED ON A PER TON RATE OF COAL COMBUSTION  
13 BY-PRODUCTS GENERATED BY THE GENERATOR ANNUALLY.

14          (B)   BY REGULATION, THE DEPARTMENT MAY ESTABLISH AND IMPOSE A  
15 FEE IN A SINGLE AMOUNT, OR IN A RANGE OF AMOUNTS, NECESSARY TO  
16 OPERATE A REGULATORY PROGRAM TO CONTROL THE MANAGEMENT OF COAL  
17 COMBUSTION BY-PRODUCTS, BASED ON THE FACTORS IN SUBSECTION (C) OF  
18 THIS SECTION.

19          (C)   IN ESTABLISHING A FEE OR A RANGE OF FEES UNDER THIS SECTION,  
20 THE DEPARTMENT SHALL GIVE CONSIDERATION TO THE FOLLOWING FACTORS:

21               (1)   THE TYPE AND VOLUME OF COAL COMBUSTION BY-PRODUCTS  
22 GENERATED BY THE GENERATOR;

23               (2)   WHETHER THE GENERATOR USES OR DISPOSES OF, OR  
24 INTENDS TO USE OR DISPOSE OF, THE COAL COMBUSTION BY-PRODUCTS;

25               (3)   THE DIFFERENT TYPES OF USES OR PROPOSED USES OF THE  
26 COAL COMBUSTION BY-PRODUCTS AND WHETHER THE USES ARE CONSIDERED  
27 BENEFICIAL USES, AS DETERMINED BY THE DEPARTMENT; AND

28               (4)   ANY OTHER FACTORS AS THE DEPARTMENT MAY DETERMINE.

29          (D)   THE DEPARTMENT MAY NOT ESTABLISH OR IMPOSE A FEE ON COAL  
30 COMBUSTION BY-PRODUCTS THAT ARE:

31               (1)   BENEFICIALLY USED, IN ACCORDANCE WITH REGULATIONS  
32 ADOPTED BY THE DEPARTMENT; OR

1           **(2)   DISPOSED OF OUTSIDE THE STATE.**

2           **(E)   A GENERATOR SHALL PAY THE FEE AS ESTABLISHED BY**  
3 **REGULATIONS OF THE DEPARTMENT.**

4           **(F)   THE FEES COLLECTED BY THE DEPARTMENT UNDER THIS SECTION**  
5 **SHALL BE DEPOSITED INTO THE FUND AND USED IN ACCORDANCE WITH § 9-284**  
6 **OF THIS SUBTITLE.**

7           **(G)   IF THE FEE SCHEDULE ESTABLISHED BY THE DEPARTMENT**  
8 **EXCEEDS THE AMOUNT NECESSARY TO OPERATE A REGULATORY PROGRAM TO**  
9 **CONTROL THE MANAGEMENT OF COAL COMBUSTION BY-PRODUCTS, THE**  
10 **DEPARTMENT SHALL REDUCE THE FEE SCHEDULE ACCORDINGLY.**

11 **9-284.**

12           **THE DEPARTMENT SHALL USE MONEY IN THE FUND:**

13           **(1)   TO ADMINISTER AND MANAGE DEPARTMENT PROGRAMS**  
14 **RELATED TO THE DISPOSAL, USE, BENEFICIAL USE, RECYCLING, PROCESSING,**  
15 **HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT OF COAL COMBUSTION**  
16 **BY-PRODUCTS;**

17           **(2)   TO FUND ALL COSTS INCURRED BY THE STATE FOR**  
18 **REVIEWING, INSPECTING, AND EVALUATING MONITORING DATA, APPLICATIONS,**  
19 **LICENSES, PERMITS, UTILIZATION REQUESTS, PLANS, ANALYSES, AND REPORTS**  
20 **RELATED TO COAL COMBUSTION BY-PRODUCTS;**

21           **(3)   FOR SITE ASSESSMENTS, INVESTIGATIONS, AND RESEARCH**  
22 **AND REMEDIAL ACTIVITIES RELATED TO THE DISPOSAL, USE, BENEFICIAL USE,**  
23 **RECYCLING, PROCESSING, HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT**  
24 **OF COAL COMBUSTION BY-PRODUCTS; AND**

25           **(4)   TO DEVELOP, PROPOSE, OR IMPLEMENT REGULATIONS,**  
26 **PROGRAMS, OR INITIATIVES TO ADDRESS RISKS TO HUMAN HEALTH AND THE**  
27 **ENVIRONMENT RELATED TO THE DISPOSAL, USE, BENEFICIAL USE, RECYCLING,**  
28 **PROCESSING, HANDLING, STORAGE, TRANSPORT, OR MANAGEMENT OF COAL**  
29 **COMBUSTION BY-PRODUCTS.**

30 **9-285.**

**BEGINNING NOVEMBER 1, 2010, THE DEPARTMENT SHALL REPORT EACH YEAR TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:**

**(1) THE STATUS OF THE FUND;**

**(2) REVENUES OF AND EXPENDITURES FROM THE FUND;**

**(3) THE EFFICIENCY OF THE REGULATORY PROGRAM UNDER THIS PART;**

**(4) COMPLIANCE RATES WITHIN THE REGULATORY PROGRAM UNDER THIS PART; AND**

**(5) BASED ON THE FACTORS LISTED IN ITEMS (1) THROUGH (4) OF THIS SECTION, THE NECESSITY TO REVIEW AND ADJUST THE FEE IN ACCORDANCE WITH § 9-283(G) OF THIS SUBTITLE.**

**9-286.**

**THE DEPARTMENT SHALL ADOPT REGULATIONS:**

**(1) TO CARRY OUT THIS PART, INCLUDING REGULATIONS ESTABLISHING FEES UNDER § 9-283 OF THIS SUBTITLE;**

**(2) ESTABLISHING PROCEDURES FOR IMPOSING AND COLLECTING THE FEES; AND**

**(3) GENERALLY RELATING TO THE MANAGEMENT AND ADMINISTRATION OF THE FUND IN ACCORDANCE WITH THIS PART.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.**